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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,662	01/08/2007	Alan Robert Burns	03955.0155USWO	2788
23552 7590 02/24/2010 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				
EXAMINER				
FISCHER, JUSTIN R				
ART UNIT		PAPER NUMBER		
1791				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,662

Applicant(s)

BURNS, ALAN ROBERT

Examiner

Justin R. Fischer

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 5, 8, 9, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Okada (JP 60-18407, of record). As best depicted in Figure 2, Okada teaches a tire including a radially inner portion, wherein said radially inner portion comprises a band 4 (via adhesive 3). It is noted that the claims as currently drafted are directed to a tire article and limitations pertaining to the wheel rim (and any attachment to said rim) do not further define the structure of the claimed tire. In this instance, the tire of Okada has the capability of being releasably fixed to a wheel rim by welding thereto.

As to claims 4, 5, 8, and 9, the tire of Okada includes a cushioning structure comprised of an inner layer 5 of high resilience and an outer layer 6 having a larger hardness.

With respect to claim 19, Figure 2 clearly depicts a band 4 having a pair of exposed edges.

3. Claims 1-5, 7, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoshino (JP 8-58307, of record). As best depicted in Figure 1, Hoshino teaches a tire including a radially inner portion, wherein said radially inner portion comprises a

metallic band 2. It is noted that the claims as currently drafted are directed to a tire article and limitations pertaining to the wheel rim (any attachment to said rim) do not further define the structure of the claimed tire. In this instance, the tire of Hoshino has the capability of being releasably fixed to a wheel rim by welding thereto.

As to claims 4, 5, and 7, the tire of Hoshino includes a cushioning structure 3.

4. Claims 1, 2, 4-7, 10-14, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Katoh (GB 2390064, of record). As best depicted in Figures 1, 6, and 8, Katoh teaches a tire construction including a cushioning structure 1 and a band 2. It is noted that the claims as currently drafted are directed to a tire article and limitations pertaining to the wheel rim (and any attachment to said rim) do not further define the structure of the claimed tire. In this instance, the tire of Katoh has the capability of being releasably fixed to a wheel rim by welding thereto.

Regarding claim 6, cushion structure 1 includes a plurality of cavities or holes 7.

As to claims 10, 12, 13, and 15, rim portions 10 represent the claimed "arcuate portions defining the outer periphery of the wheel rim" (Figure 8). Also, the limitation requiring welding relates to the method in which the band and the wheel rim are attached and such a limitation does not further define the structure of the claimed assembly (rim and tire). It is emphasized that the disclosed method/technique has not been shown to form a materially different article.

With respect to claims 11 and 14, band 2 can include reinforcing elements 8 in the form of wire members, wire rods, or steel-made plate members (Paragraph 20). It is emphasized that the claims as currently drafted do not define the band as consisting

solely of metal. Additionally, such steel-made plate members can be viewed individually as defining the claimed band.

Response to Arguments

5. Applicant's arguments filed January 21, 2010 have been fully considered but they are not persuasive.

Applicant argues that Okada fails to disclose releasably fixing a tire with respect to the outer periphery of the wheel rim by being welded thereto. More particularly, applicant argues that Okada describes solid tires of the type that are press fitted onto wheel rims. As detailed in the rejection above, the claims as currently drafted are directed to a tire article that is ADAPTED to be releasably fixed to the outer periphery of a wheel rim. This limitation does not require an assembly in which the tire is releasably fixed to a wheel rim but rather a tire that has the capability of being releasably fixed to a wheel rim. It is unclear how the tire of Okada does not have the capability of being releasably fixed to a wheel rim.

Applicant further argues that the features of the radially inner portion and the band are features of the tire and not of the wheel rim. The examiner agrees. As detailed above, the tire of Okada includes a radially inner portion comprising a band 4.

It is additionally noted that this response is equally applicable to the rejections with Hoshino and Katoh as applicant provides similar arguments with respect to these references.

With specific respect to Katoh, it is emphasized that the claims simply require a tire that is ADAPTED to be releasably fixed to a wheel rim. The claims fail to positively

require a welding step between the tire and the rim. It is unclear how the band of Katoh is incapable of being welded to an underlying wheel rim. It is emphasized that the language “adapted to be releasably fixed” fails to impart any structural limitation that defines over the tire/wheel assembly of Katoh. Lastly, the fact that Katoh refers to solid tires which are press fitted on the wheel rim does not render said tire incapable of being releasably fixed via a welding step.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Justin R. Fischer** whose telephone number is **(571) 272-1215**. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Fischer
/Justin R Fischer/
Primary Examiner, Art Unit 1791
February 23, 2010